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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
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10 ANTHONY BAILEY,

11 Plaintiff,

12 v.

13 CITY OF LAS VEGAS, *et al.*,

14 Defendants.

Case No. 2:09-CV-02281-KJD-PAL

ORDER

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16 On December 7, 2011, the Court issued Order (#64) granting Defendants' Motions for
17 Summary Judgment. On December 15, 2011, Plaintiff filed a Motion to Vacate
18 the Order for Summary Judgment (#66), which was denied (#71). On June 22, 2012, Plaintiff filed a
19 Notice of Appeal (#72). On July 11, 2012, the Ninth Circuit Court of Appeals dismissed Plaintiff's
20 appeal (#75). On April 15, 2013, Plaintiff filed a Motion for Relief from Judgment (#78), which was
21 denied (#82). Before the Court now is Plaintiff's Motion for District Judge to Reconsider Order on
22 Motion (#83).

23 It is time for Plaintiff to accept reality. The Court warned Plaintiff in its previous Order (#82)
24 that Plaintiff would be sanctioned "at minimum the costs and fees of Defendant's response" if he
25 continued filing in this matter. Nevertheless, Plaintiff persists in making meritless motions that serve
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1 no discernable purpose other than wasting this Court's resources. Plaintiff should count himself
2 lucky that Defendants understandably have not responded to Plaintiff's wholly frivolous filing.

3 Plaintiff here rehashes the same ineffective arguments for the fourth time. His only
4 discernable, cognizable, and not-Previously-adjudicated argument is that his Motion for Relief (#78)
5 was improperly denied as untimely. However, untimeliness was an alternate ground for denying
6 Plaintiff's Motion, meaning that even if the Court were wrong regarding timeliness, the Motion
7 would still be denied on other grounds (#82). Secondly, the Court was not wrong. Plaintiff argues
8 that the one-year period should have been tolled during the period of appeal. As noted in the Court's
9 Order, even if the period is tolled, Plaintiff's Motion is untimely (#82). However, tolling is
10 inapplicable to Plaintiff's Motion "because the one-year limitation period is not tolled during an
11 appeal" for claims under Federal Rule of Civil Procedure 60(b)(1)-60(b)(3). Nevitt v. United States,
12 886 F.2d 1187, 1188 (9th Cir. 1989).

13 Accordingly, **IT IS HEREBY ORDERED** that Plaintiff's Motion for District Judge to
14 Reconsider Order on Motion (#83) is **DENIED**. Plaintiff is **FURTHER ORDERED** to show cause
15 why he should not be deemed a vexatious litigant and barred from further filings. Plaintiff has 30
16 days from the entry of this order to respond.

17 DATED this 1st day of October 2013.

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Kent J. Dawson
United States District Judge

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